

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Gregory Scott
Ellen Gavin
Marshall Johnson
LeRoy Koppendrayer
Phyllis A. Reha

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Application of Faribault
Energy Park, LLC for a Certificate of Need for
a 250-Megawatt Electric Generating Facility

ISSUE DATE: December 11, 2002

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ORDER EXTENDING COMPLETENESS
REVIEW PERIOD

PROCEDURAL HISTORY

On November 19, 2002, Faribault Energy Park, LLC filed an application for a certificate of need to construct a 250-megawatt electric generating facility near Faribault, Minnesota to serve municipal utility members of the Minnesota Municipal Power Agency. On November 20, 2002, the Commission issued a Notice of Comment Periods, seeking comments on the substantial completeness of the application. That notice required initial comments by December 9 and reply comments by December 19.

On December 5, 2002, after notice to all interested persons, the Commission took up the issue of whether to extend the 30-day deadline set by Commission rule for determining the completeness of the application. The applicant appeared, stated that significant delay in processing its application could jeopardize project financing, and urged the Commission to act on completeness as soon as possible.

FINDINGS AND CONCLUSIONS

The certificate of need rules require the Commission to determine within 30 days of filing whether or not a certificate of need application is substantially complete.¹ The Commission has reviewed the application filed by Faribault Energy Park, LLC and finds that careful consideration of its completeness will require more than 30 days.

¹ Minn. Rules 7849.0200, subp. 5.

This case is complex and in many ways unique. To avoid delay and inefficiency as the case progresses, it is critical to begin with a substantially complete filing. The Commission has therefore solicited comments on completeness from interested persons. Receiving, analyzing, and acting on those comments will require more than 30 days from the date the application was filed.

Minn. Rules 7829.3200 authorizes the Commission to vary any of its rules upon making the following findings:

- (1) Enforcing the rule would impose an excessive burden upon the applicant or others affected by the rule;
- (2) Granting the variance would not adversely affect the public interest; and
- (3) Granting the variance would not conflict with any standards imposed by law.

The Commission will therefore vary the 30-day time line for determining the completeness of this application based on the following findings:

- (1) Enforcing the 30-day time line would impose an excessive burden upon the public, upon parties to the proceeding, and upon the Commission by jeopardizing the thoroughness of completeness review, which in turn could jeopardize the efficient and orderly processing of this application.
- (2) Varying the 30-day time line would not adversely affect the public interest and would in fact serve the public interest by protecting the Commission's decision-making process.
- (3) Varying the 30-day time line would not conflict with any other standards imposed by law.

The Commission appreciates the time constraints the applicant faces, will promptly review the comments of the parties, and will determine whether or not the application is substantially complete at its first meeting in January 2003.

The Commission will so order.

ORDER

1. The Commission varies Minn. Rules 7849.0200, subp. 5 to extend the time for determining whether the certificate of need application is substantially complete until its first meeting in January 2003.

2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)

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